



STATE OF MICHIGAN

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## MEMORANDUM

**November 29, 2012**

**TO:** MSHDA Community Development Division (CDD) Grantees

**FROM:** Jim Davis, Construction Management Specialist

**RE:** **Mixed-Use Downtown Properties Rental Rehabilitation Program  
Phase 1 Environmental Site Assessment (ESA) and/or Due Diligence  
Transaction Screening**

The Michigan State Housing Development Authority (MSHDA), Community Development Division (CDD) is modifying our Rental Rehabilitation Program policy as it relates to site specific ESA protocol on mixed-use buildings, non-commercial, residential only projects.

The U.S. Department of Housing and Urban Development (HUD) is required to comply with the National Environmental Policy Act of 1969 (U.S.C. 4321 et seq.) (NEPA) for implementing procedures issued by the Council of Environmental Quality at 40 CFR parts 1500-1508. HUD regulations implementing NEPA are contained in 24 CFR, Part 50, "Protection and Enhancement of Environmental Quality".

Currently, CDD policy requires a Phase 1 ESA and/or Phase 2 ESA on all mixed-use buildings, downtown rental rehabilitation projects. This requirement aligns with ASTM E-1527-05 standard practice for environmental site assessments. ASTM E-1528-06 aligns with standard practice for "Limited Due Diligence" and HUD Multi-Family Accelerated Processing (MAP) Guide, Chapter 9.

To further research HUD Multi-Family Accelerated Processing (MAP) Guide, Environmental Review Chapter 9: <http://www.hud.gov/offices/hsg/mfh/map/mapguide/chap09.pdf>

### **Phase 1 and Limited Environmental Due Diligence Transaction Screening ESA Similarities and/or Differences:**

The Phase 1 ESA is a site specific study for commercial buildings and/or multi-family developments of five (5) or more units, a study for Recognized Environmental Conditions (REC), the presence or potential presence of hazardous substance or petroleum product releases into the soil and/or groundwater, as well as into structures, which can migrate through the floor to the subsurface.

The Transaction Screen is “Limited Environmental Due Diligence” site specific ownership and building use study; but less than a Phase 1 ESA. The transaction screen approach to due diligence is; field inspection, historic use and records research. The transaction screen will serve as the grantee’s ESA due diligence on downtown mixed-use buildings (2<sup>nd</sup> or 3<sup>rd</sup> floor residential only) projects, one (1) to four (4) units in a single building. If REC’s become apparent within and/or during the transaction screen process, a Phase 1 ESA shall be required and CDD approved. Please note; if a grantee chooses to use a site specific transaction screen instead of a Phase 1 ESA, absolutely no commercial space can be renovated in conjunction with the rental units (i.e. whole building components such as roofing, heating, electrical, plumbing etc.).

To obtain a proper transaction screen, grantees are required to hire a geologist, engineer or scientist with knowledge of soil science, groundwater hydrology and regulatory conditions.

For a list of qualified ESA consultants:

[http://www.michigan.gov/documents/mshda/MSHDA-Review-Process-Flow-Chart-Qualified-Consultants-List\\_348540\\_7.pdf](http://www.michigan.gov/documents/mshda/MSHDA-Review-Process-Flow-Chart-Qualified-Consultants-List_348540_7.pdf)

### **Overview of ESA Due Diligence Evaluation, Downtown Mixed-Use Buildings:**

Projects involving one (1) to four (4) units that are also 2<sup>nd</sup> or 3<sup>rd</sup> floor residential only rehabilitation activities in downtown mixed-use buildings require the following process:

1. Transaction screening required.
2. As determined by the environmental consultant and/or CDD, other studies as needed; Phase 1 ESA.
3. As determined by the environmental consultant and/or CDD, other studies as needed; Phase 2 ESA.
4. REC clean up, site remediation as indicated in the Phase 2 ESA report.
5. ASTM/AAI clearance protocol.

Projects involving five (5) or more residential units in downtown mixed-use buildings require the following process;

1. Phase 1 ESA required.
2. As determined by the environmental consultant and/or CDD, other studies as needed (i.e. Phase 2 ESA required).
3. REC clean up, site remediation as indicated in the Phase 2 ESA report.
4. ASTM/AAI clearance protocol.

To further research the ASTM E-1528-06 Standard Practice for Limited Environmental Due Diligence:

[http://enterprise.astm.org/filtrexx40.cgi?+REDLINE\\_PAGES/E1528.htm](http://enterprise.astm.org/filtrexx40.cgi?+REDLINE_PAGES/E1528.htm)

To further research the ASTM E-1527-05 Standard Practice for Environmental Site Assessments:

[http://enterprise.astm.org/filtrexx40.cgi?+REDLINE\\_PAGES/E1527.htm](http://enterprise.astm.org/filtrexx40.cgi?+REDLINE_PAGES/E1527.htm)

MSHDA CDD highly encourages partnerships with local Brownfield Redevelopment Authorities (BRA) to review and/or explore how they can assist with downtown building/project Transaction Screening, Phase 1 ESA, Phase 2 ESA or site remediation activities. BRA’s can work directly with the DEQ to assist with eligible properties.

List of Brownfield Redevelopment Authorities:

[http://www.michigan.gov/documents/deg/deg-rrd-BRWN-factsheetcontactmap\\_348474\\_7.pdf](http://www.michigan.gov/documents/deg/deg-rrd-BRWN-factsheetcontactmap_348474_7.pdf)